

Message Text

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TAGS: PFOR, CPRS, SW

SUBJECT: PINKNEY EXTRADITION CASE AS A POTENTIAL IRRITANT TO
US-SWEDISH RELATIONS

REF: STATE 30241 AND STOCKHOLM 504

1. IT WILL BE DIFFICULT TO SEE A REFUSAL BY THE SWEDISH SUPREME COURT OR GOVERNMENT TO EXTRADITE LARRY J. PINKNEY, GIVEN THE FACTS OF THE CASE, AS OTHER THAN AN INSULT TO THE AMERICAN JURIDICAL PROCESS, A CHALLENGE TO THE CREDIBILITY OF THE US-SWEDISH EXTRADITION TREATY, AND A PRECEDENT THAT COULD LONG BURDEN BILATERAL RELATIONS WITH REPEATED STRIFE IN EXTRADITION MATTERS. DCM WILL MEET FRIDAY MORNING, FEBRUARY 14, WITH FOREIGN MINISTRY ACTING DIRECTOR FOR LEGAL AND CONSULAR AFFAIRS HANS DANIELIUS. WE WOULD APPRECIATE ANY COMMENTS THE DEPARTMENT MAY WISH TO MAKE ON THIS CASE, AND IN PARTICULAR, COMMENTS IN RESPONSE TO QUESTIONS BELOW.

2. WE ASSUME THAT EXTRADITION JURIDICALLY AND POLITICALLY CAN BE DENIED IN THIS CASE ON ONE OR BOTH OF THE FOLLOWING GROUNDS:

1. PINKNEY'S CONVICTION BY A UNANIMOUS JURY VOTE
"IS MANIFESTLY ERRONEOUS" JUDGING FROM THE DOCUMENTATION SUBMITTED TO THE SWEDISH COURT.

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2. EITHER THE COURT OR THE GOVERNMENT CONSIDERS THAT

PINKNEY RUNS THE RISK OF BEING SUBJECTED IN CALIFORNIA TO PERSECUTION DIRECTED AGAINST HIS LIFE OR LIBERTY FOR REASONS OF HIS RACE, MEMBERSHIP OF A CERTAIN COMMUNITY, RELIGIOUS OR POLITICAL OPINION OR OTHERWISE ON ACCOUNT OF POLITICAL CIRCUMSTANCES. (SWEDISH EXTRADITION ACT OF 1957).

3. DOES THE DEPARTMENT CONCUR THAT THE GRAND JURY PROCEEDINGS TRANSCRIPT AND OTHER DOCUMENTATION SUBMITTED ALREADY OUGHT TO REPRESENT ADEQUATE "ADDITIONAL DOCUMENTATION" (ARTICLE 11 OF THE US-SWEDISH EXTRADITION CONVENTION THAT ENTERED INTO FORCE IN 1965) BEYOND WHAT IS NORMALLY REQUIRED IN THE CASE OF A CONVICTED PERSON? AS DEPARTMENT AWARE, IN THE CASE OF A CONVICTED PERSON, ONLY A COPY OF THE FINAL SENTENCE OF THE COMPETENT COURT IS NORMALLY REQUIRED, BUT IN THIS CASE, PINKNEY DISAPPEARED FROM THE COURTROOM A FEW HOURS BEFORE THE JURY RETURNED ITS GUILTY VERDICT AND NO SENTENCE HAS YET BEEN IMPOSED.

4. HOW COMMON OR PRECEDENTED IS IT FOR FOREIGN COURTS OR GOVERNMENTS TO DENY EXTRADITION UNDER CIRCUMSTANCES COMPARABLE TO THOSE OF THE PINKNEY CASE?

5. THE SWEDISH SUPREME COURT INVITED PINKNEY TO APPEAR BEFORE IT AND ARGUE HIS INNOCENCE BUT IS INVITED NO ONE TO REBUT WHATEVER MISREPRESENTATIONS PINKNEY SAW FIT TO OFFER. IS THIS A PROCEDURE CONSIDERED ACCEPTABLE, IF RARE, IN INTERNATIONAL EXTRADITION PRACTISE?

6. WHAT CONSEQUENCES MAY BE IDENTIFIED IN OUR MEETING AT THE FOREIGN MINISTRY AS LIKELY OR POSSIBLE IF PINKNEY'S EXTRADITION IS DENIED, EITHER GENERALLY OR WITH REFERENCE TO THE FUTURE OF THE EXTRADITION CONVENTION?

7. THIS EMBASSY FEELS IT HAS EQUAL OBLIGATIONS BOTH TO THE SAN FRANCISCO COURT AND JURY AND TO US CITIZEN/TAXPAYER/PINKNEY WITH RESPECT TO ASSURING THAT HE HAS NOT BEEN AND WILL NOT BE PERSECUTED ON ACCOUNT OF COLOR OR POLITICAL AFFILIATION. NOTHING WE HAVE SEEN IN THE RECORDS OF THIS CASE ARGUES THAT THERE IS A REASONABLE POSSIBILITY THAT PINKNEY'S CONVICTION WAS BASED ON PERSECUTION.

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8. THE REPORT FROM SAN FRANCISCO BY DAGENS NYHETER CORRESPONDENT KURT MALERSTEDT PUBLISHED FEBRUARY 6 INDEED FAILED TO SUPPORT HIS PAPER'S ALREADY ESTABLISHED EDITORIAL THESIS THAT PINKNEY WAS THE VICTIM OF RACIAL AND POLITICAL PERSECUTION. HIS REPORT QUALIFIES AS EXTRAORDINARY IN THE MODERN ANNALS OF SWEDISH JOURNALISM FOR ITS AVOIDANCE OF A BUILT-IN ANTI-AMERICAN SLANT. THE NEXT DAY MALERSTEDT'S NEWSPAPER OPENED ITS COLUMNS

WIDELY TO EDITORIAL AND DEFENSE LAWYER DISCREDITING OF HIS
REPORTAS "ONE-SIDED" AND MEANINGLESS IN THE FACE OF THE
AMERICAN REFUSAL TO PROVIDE A TRANSCRIPT OF THE ACTUAL TRIAL
PROCEEDINGS.
STRAUSZ-HUPE

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